

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8535 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No.

-----  
GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

LIAQAT ALI M. CONTRACTOR

-----  
Appearance:

MR YS LAKHANI for the Petitioner.

MR HK RATHOD for the respondent.

-----  
CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 18/02/98

ORAL JUDGEMENT

Rule. Mr. H.K.Rathod, learned Advocate for the respondent waives service of the Rule. At the request of the learned Advocates, this petition is taken up for final hearing to-day.

The petitioner, at the relevant time, was serving as a Conductor with the petitioner Corporation. An inquiry was initiated against him for misappropriation of Rs.60/- as according to the Corporation, the respondent

had not deposited this amount by entering false numbers in the Way Bills. At the end of the inquiry, the petitioner Corporation passed an order of dismissal and was accordingly dismissed with effect from 5-9-92. The respondent workman filed a Reference before the Labour Court, Bulsar. The Labour Court was of the view that the extreme penalty of dismissal is quite disproportionate. In substance, the Labour Court exercised its powers under Section 11A of the ID Act and reinstated the respondent without back wages. The Corporation has challenged this order of the Labour Court by way of this petition.

Reading the impugned order, it is clear that the Labour Court has not inflicted any punishment even though the charge is proved. During the course of hearing, the respondent workman, who is present in the Court to-day, has filed an affidavit wherein he has, inter alia, stated that he is a poor man and is unemployed at present. He is the only bread earning member in the family. It is not possible for him to wait till the decision of the High Court. He has, therefore, agreed that if the penalty of withholding of five increments with future effect is imposed upon him, he is prepared to accept the same. Mr. Lakhani, learned Advocate for the Corporation is also prepared to accept the punishment suggested by the respondent. In view of this development, the order of the Labour Court is required to be modified and this petition is required to be partly allowed.

In the result, the petition is partly allowed. The order of the Labour Court is modified. A penalty of withholding of five increments with future effect is imposed on the respondent workman. The petitioner Corporation is accordingly directed to reinstate the respondent workman with continuity of service but without back wages till the date of the award i.e. 14-2-1997 passed by the Labour Court.

On behalf of the petitioner Corporation it is stated that the petitioner will be reinstated in service with effect from 1st March, 1998 and will be paid back wages from the date of the award i.e. 14-2-1997 within four weeks from to-day.

Rule is made absolute to the aforesaid extent with no order as to costs.

\*\*\*\*\*

Verified copy